

REMARKS

Claims 1-26 are pending in the application. Claims 1-18 are indicated as allowed. Claim 11, though allowed, has been amended for clarity, as it is believed the originally claimed relationship between the first lever and the stationary handle may not have been completely in accord with the described invention. It is noted that this amendment and the like amendments discussed below have not been required for purposes of allowance, and therefore no post-issuance prejudice to the scope of the claims should be implied by such amendments to the claims.

Claims 20-24 and 26 are objected to, but indicated as allowable if rewritten in independent form. New claims 27-29 correspond to claims 20, 21 and 26 being rewritten in independent form. In the new claims, the relationship of the first lever and the stationary handle has been clarified as done in claim 11 above. Claim 22 has been amended to depend from new claim 28.

Claims 19 and 25 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. Nos. 5,439,156 to Grant or 5,792,165 to Klieman. The applicants respectfully traverse the Examiner's rejection for the following reasons.

Claim 19, as amended, requires a handle assembly with,

- (i) a stationary member,
- (ii) a first lever *linearly movable* relative to said stationary member and coupled to said proximal end of said at least one first control element, wherein movement of said first lever relative to said stationary member effects relative proximal and distal movement of said at least one first control element relative to said tubular member,

- (iii) a first spring biasing said first lever away from said stationary member, and
- (iv) a catch system which *automatically locks* said first lever relative to said stationary member when said first lever is moved against the bias of said first spring *with a predetermined amount of force*, said catch system including a manual release which unlocks said first lever relative to said stationary member. (emphasis added)

With respect to Grant, the movable handle is pivotable, not linearly movable:

“The actuator handle assembly 80 includes an elongated handle 90 (stationary handle) on which a staple actuating lever 92 is pivotally mounted” (col. 10, lines 14-16). There is no suggestion to reconfigure the handle to be linearly movable. In addition, Grant fails to teach or suggest a catch system which automatically locks the lever relative to the handle when the handle is subject to a predetermined amount of force.

Regarding Klieman, Figs. 26A, 26B, 26C, 29A, 29B, and 30A and respective disclosure in the text all disclose a linearly movable lever, trigger 2. However, Klieman fails to teach or suggest any catch system for the trigger which operates as claimed. More particularly, Klieman states “[p]ulling the trigger 2 causes closing of the end effector pieces . . . , and the amount of closure is directly proportional to the travel of trigger 2.” (Col. 21, lines 62-64). Klieman provides no discussion of a catch. With respect to a microprocessor-controlled embodiment at Col. 23, lines 54-67, Klieman teaches that a variable position switch can be used with trigger 2, wherein in a fully released or open position, a control signal is sent to move the motor until the end effector tip is fully open and held open, and in a fully closed position, the motor is operated to close the end effector and hold it closed. Intermediate positions map trigger positions to corresponds to end effector positions. Klieman specifically states “the trigger may be

adapted to be movable vertically to provide a “lock-out” feature, immobilizing the end effector 8 in any position.” (at Col. 23, lines 65-67) There is no teaching or suggestion that any such lock-out feature is automatic caused by the “first lever [being moved] against the bias of said first spring with a predetermined amount of force.” (*emphasis added*)

For the foregoing reasons, it is submitted that the claims are neither anticipated nor obvious over Grant or Klieman.

In light of all of the above, it is submitted that all claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,



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